

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X

DONNIKA D. HUDSON,

*Plaintiff,*

**Case No. 10 CV 3287 (RJH)**

-against-

ASSET PROTECTION & SECURITY SERVICES,  
MARC BALZERAK, and ANGELA ELLIS,

**PLAINTIFF'S  
PROPOSED  
VERDICT FORM**

*Defendants.*

-----X

Plaintiff, Donnika D. Hudson, by and through her attorneys, The Harman Firm, PC, hereby proposes the following questions for the jury verdict sheet.

**I. QUESTIONS REGARDING DISCRIMINATION**

**A. Discrimination Based on Sexual Orientation Under the NYCHRL**

Question 1: Has Plaintiff shown by a preponderance of evidence that Plaintiff is in a protected class?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 2: Has Plaintiff shown by a preponderance of the evidence that she was qualified to hold her employment position?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 3: Has Plaintiff shown by a preponderance of the evidence that she suffered an adverse employment action?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 4: If you answered “Yes” to Question 3, has Plaintiff shown by a preponderance of the evidence that the adverse employment action Plaintiff suffered gives rise to an inference of unlawful discrimination?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 5: Has Plaintiff shown by a preponderance of evidence that she was subjected to harassment in the workplace because of her sexual orientation?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 6: Has Plaintiff shown by a preponderance of evidence that Plaintiff informed Defendants of the harassment based on sexual orientation?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 7: Has Plaintiff shown by a preponderance of evidence that Plaintiff faced an adverse employment action because she complained about harassment based on sexual orientation?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 8: Has Plaintiff shown by a preponderance of evidence that she was terminated from her position at least in part because of discrimination based on sexual orientation?

Answer: \_\_\_\_\_ [“Yes” or “No”]

**B. Gender Discrimination Under Title VII and NYCHRL**

Question 9: Has Plaintiff shown by a preponderance of evidence that Plaintiff is in a protected class – that she is a female?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 10: Has Plaintiff shown by a preponderance of the evidence that she was qualified to hold her employment position?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 11: Has Plaintiff shown by a preponderance of the evidence that she suffered an adverse employment action?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 12: If you answered “Yes” to Question 3, has Plaintiff shown by a preponderance of the evidence that the adverse employment action Plaintiff suffered gives rise to an inference of unlawful discrimination?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 13: Has Plaintiff shown by a preponderance of evidence that she was treated differently than other similarly situated male employees in the workplace because of her gender?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 14: Has Plaintiff shown by a preponderance of evidence that Plaintiff informed Defendants of the disparate treatment based on gender?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 15: Has Plaintiff shown by a preponderance of evidence that Plaintiff faced an adverse employment action because she complained about disparate treatment based on gender?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 16: Has Plaintiff shown by a preponderance of evidence that she was terminated from her position at least in part because of gender discrimination?

Answer: \_\_\_\_\_ [“Yes” or “No”]

## **II. QUESTIONS REGARDING THE HOSTILE WORK ENVIRONMENT**

### **A. Hostile Work Environment Under Title VII**

Question 17: Has Plaintiff shown by a preponderance of evidence that Plaintiff's workplace was permeated with discrimination based on sexual orientation that was severe or pervasive enough to alter the conditions of her work environment?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 18: Has Plaintiff shown by a preponderance of evidence that Plaintiff's workplace was permeated with gender discrimination that was severe or pervasive enough to alter the conditions of her work environment?

Answer: \_\_\_\_\_ ["Yes" or "No"]

### **B. Hostile Work Environment Under the NYCHRL**

Question 19: Has Plaintiff shown by a preponderance of evidence that Plaintiff has faced discrimination in the workplace based on her sexual orientation that altered the conditions of her work environment?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 20: Has Plaintiff shown by a preponderance of evidence that Plaintiff has faced gender discrimination in the workplace that altered the conditions of her work environment?

Answer: \_\_\_\_\_ ["Yes" or "No"]

### **III. QUESTIONS REGARDING RETALIATION**

#### **A. Retaliation Under Title VII**

Question 21: Has Plaintiff shown by a preponderance of evidence that Plaintiff told Defendants that she was being harassed due to her sexual orientation?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 22: Has Plaintiff shown by a preponderance of evidence that Plaintiff told Defendants that she was being harassed due to her gender?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 23: Has Plaintiff shown by a preponderance of evidence that when Defendants learned of Plaintiff’s complaints of harassment they took adverse actions against Plaintiff?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 24: Has Plaintiff shown by a preponderance of evidence that there is a causal connection between Plaintiff informing Defendants of the harassment in the workplace and the adverse actions taken against Plaintiff?

Answer: \_\_\_\_\_ [“Yes” or “No”]

#### **B. Retaliation Under NYCHRL**

Question 25: Has Plaintiff shown by a preponderance of evidence that Plaintiff told Defendants that she was being harassed due to her sexual orientation?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 26: Has Plaintiff shown by a preponderance of evidence that Plaintiff told Defendants that she was being harassed due to her gender?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 27: Has Plaintiff shown by a preponderance of evidence that when Defendants learned of Plaintiff's complaints of harassment they took adverse actions against Plaintiff?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 28: Has Plaintiff shown by a preponderance of evidence that there is a causal connection between Plaintiff informing Defendants of the harassment in the workplace and the adverse actions taken against Plaintiff?

Answer: \_\_\_\_\_ ["Yes" or "No"]

#### **IV. QUESTIONS REGARDING LIABILITY**

##### **A. Discrimination**

Question 29: Has Plaintiff shown by a preponderance of evidence that the company Defendant should be responsible for the discriminatory actions of individual Defendant Angela Ellis?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 30: Has Plaintiff shown by a preponderance of evidence that the company Defendant should be responsible for the discriminatory actions of individual Defendant Marc Balcerzak?

Answer: \_\_\_\_\_ ["Yes" or "No"]

##### **B. Hostile Work Environment**

Question 31: Has Plaintiff shown by a preponderance of evidence that the company Defendant should be responsible for the hostile work environment created by individual Defendant Angela Ellis?

Answer: \_\_\_\_\_ ["Yes" or "No"]

Question 32: Has Plaintiff shown by a preponderance of evidence that the company Defendant should be responsible for the hostile work environment created by individual Defendant Marc Balcerzak?

Answer: \_\_\_\_\_ [“Yes” or “No”]

**C. Retaliation**

Question 33: Has Plaintiff shown by a preponderance of evidence that the company Defendant should be responsible for the retaliatory actions of individual Defendant Angela Ellis?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 34: Has Plaintiff shown by a preponderance of evidence that the company Defendant should be responsible for the retaliatory actions of individual Defendant Marc Balcerzak?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 35: Has Plaintiff shown by a preponderance of evidence that the company Defendant should be responsible for the illegal retaliatory termination of Plaintiff’s employment?

Answer: \_\_\_\_\_ [“Yes” or “No”]

**V. QUESTIONS REGARDING DAMAGES**

**A. Economic Damages**

Question 36: Has Plaintiff shown by a preponderance of evidence that Plaintiff suffered economic damages as a direct result of the illegal retaliatory termination of Plaintiff’s employment?

Question 37: If your answer to Question 36 is “Yes,” how much economic loss was suffered by Plaintiff because of the illegal retaliatory termination?

Answer: \_\_\_\_\_

**B. Non-Economic Damages**

Question 38: Has Plaintiff shown by a preponderance of evidence that Plaintiff suffered emotional injuries which arose from the discrimination she faced in the workplace?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 39: If you answered, “Yes” to Question 38, how much should Plaintiff be awarded for her emotional injuries?

Answer: \_\_\_\_\_

Question 40: Has Plaintiff shown by a preponderance of evidence that Plaintiff suffered emotional injuries which arose from the hostile work environment she faced in the workplace?

Question 41: If you responded “Yes” to Question 40, how much economic loss was suffered by Plaintiff because of the hostile work environment?

Answer: \_\_\_\_\_

Question 42: Has Plaintiff shown by a preponderance of evidence that Plaintiff suffered emotional injuries which arose from the illegal retaliatory termination of her employment?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Question 43: If you answered “Yes” to Question 42, how much should Plaintiff be awarded for her emotional injuries?

Answer: \_\_\_\_\_



**C. Punitive Damages**

Question 44: Has Plaintiff shown by a preponderance of evidence that Defendants acted intentionally towards her?

Answer: \_\_\_\_\_ [“Yes” or “No”]

Dated: New York, New York  
June 8, 2012

By: \_\_\_\_\_/s/  
Walker G. Harman, Jr. [WH-8044]  
THE HARMAN FIRM, PC  
*Attorneys for Plaintiff*  
200 West 57th Street, Suite 900  
New York, NY 10019  
Tel: (212) 425-2600  
Fax: (212) 202-3926  
wharman@theharmanfirm.com

To: Lawrence R. Bailey, Jr., Esq.  
ECKERT SEAMANS CHERIN & MELLOTT, LLC  
*Counsel for Defendant*  
10 Bank Street, Suite 1061  
White Plains, NY 10165-0150  
(914) 286-2805